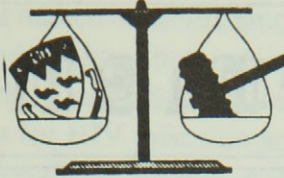


# Quid Novi



Vol. X, No. 18

McGILL UNIVERSITY FACULTY OF LAW  
UNIVERSITE MCGILL FACULTE DE DROIT

February 7, 1990  
le 7 février 1990

## The Enemy Within: AIDS and Regulation

by Darcy Edgar, LLB II

AIDS, Medicine and the Law: Informing Partners and other Controversies, a panel discussion presented by the AIDS Action SIDA during AIDS Action Week, featured speakers Anne Duffie and Andrew Orkin, from the McGill Centre for Medicine, Ethics and Law, and Prof. William Flanagan, formerly from the faculty.

Duffie said that while most of the focus today is on fear of the infected group, little attention is paid to the impact of the HIV virus on the medical profession.

Issues yet to be addressed, said Duffie, include whether hospital patients can be tested for the HIV virus without consent. In addition, the status of infected medical workers is unclear. This group includes those who are exposed to or infected with the virus through adverse events (for example, accidents with infected needles), or through personal contacts. Do they have a duty to disclose their infection? Should they continue to practise? Or should their practice be limited - for example, in the case of surgeons? Can infected workers be discriminated against, i.e. fired or not hired, forced into administrative positions, and so forth? While there has not yet been a

documented case of a medical professional infecting a patient, it seems inevitable that questions like these may one day have to be answered. In the case of a worker infected in the course of their duties, who should pay for retraining, loss of income, medical care, and/or other damages? The hospital? Or should society at large indemnify the risk? A final and chilling question posed by Duffie: are medical professionals obligated to treat HIV-positive patients?

Cont'd on p. 3

## A Crash Course in Aboriginal Law

by Michael Wilhelmson, LL. B II

Christine Deom grew up on the Mohawk Kanahwake reserve before pursuing an education at the universities of New Brunswick, Western Ontario and McGill. She returned to teach on the reserve from 1976 to 1987 before deciding to study law. One thing about living on a reserve, she says, is that you quickly learn the impact of law on native people.

"You can't avoid it, growing up there," she says. Every Indian kid knows about

the Indian Act. They know what's happening. The issue remains: If only more people beyond the confines of the reserves knew as much?

Deom is now in her third year at the Faculty of Law (LLB) and a member of the Student Conference Committee on Native Law, which has set out to correct the information gap. The committee has organized a "crash course" in native law to be held in the Moot Court on February 7 and 8.

Entitled, "Conflict, Self-Determination and  
Cont'd on p.5

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# Announcements

**Res Ipsa Loquitur (Yearbook)** - All graduating students are reminded that their biographies for the yearbook were due last week. Let's get moving, folks.

As well, Feb. 15 is **absolutely**, positively, without exception the **deadline** for ordering your yearbook. Our publisher will not accept any orders after Feb.15 and we are not ordering any extra copies.

**Careers Day** - Les efforts de Julia Hanigsberg et du Comité Carrières, Joanne Fox, Neil Berlad, Drew Berman, Marie Lussier, Frank Picciola, Richard Rosensweig, Natasha VandenHoven et Irene Wolfe, de même que ceux de Suzan Roy du bureau de placement, ont fait de la Journée Carrières du 26 janvier dernier un très grand succès. Au nom de mes collègues et, j'en suis sûr, des étudiants et étudiantes qui ont participé à cette activité, je leur exprime ici toute ma gratitude pour ce travail énorme.

Plus de 175 avocats et avocates étaient présents à l'occasion de cette journée. Plusieurs d'entre eux m'ont dit combien ils étaient ravis de la participation des étudiants cette année. Je ne peux que me réjouir de l'intérêt que les étudiants ont manifesté pour cette activité.

Prof. Daniel Jutras, vice-doyen.

\*\*\*\*\*

To a fabulous committee: Thank you Neil, Drew, Joanne, Natasha, Marie, Irene, Richard and Frank for making Careers possible - and for even making it fun (???)!

A special thanks to the *Quid* gang for letting us put together a Careers Day special issue. This, of course, would never have been possible without the help of those who contributed to that issue.

Finally, a special thanks to Suzan and Prof. Jutras.

Great work gang! Julia Hanigsberg

\*\*\*\*\*

On behalf of all law students, the *Quid Novi* would like to commend Julia Hanigsberg, Suzan Roy, Prof. Jutras and the Careers Committee on a most successful Careers Day. For their dedication, time, and effort - "although it's been said many times, many ways" - thanks for everything!

**Typist wanted - Native Law Conference** - Typist needed to prepare transcript from Native Law Conference. Transcribing machine supplied. Estimated time of 20 hours. Contact Garth Wallbridge at 630-4541

between 7:00 and 9:00 p.m. or on week-ends.

**Legal Aid Clinic** - Wanted: Legal Aid directors. Cinq postes, mai 1990 à avril 1991. Qualifications: worked 2 terms as a volunteer. Les formulaires d'application sont disponibles à la clinique. Deadline for applications: February 16.

**Fee Hike** - As you know, the Quebec government has decided to increase tuition fees by \$350 in Sept. 1990 and by another \$350 in Sept. 1991. McGill will also be allowed to levy an extra 10% surcharge. Therefore the total cost of education at McGill will increase from about \$900 now to over \$1700 by Sept. 1991. Fees will continue to rise every year after 1991. In this context, it is important for students at McGill to get informed about this issue. A broad coalition opposed to tuition fee increase (Campaign against the Privatization of Education) has been launched. Its weekly meeting is taking place on Wednesdays at 5 p.m. in the Union building, room B-03. For more info, contact Eric Darier, V.P. External, SSMU.

**Women and the Law - Juge Andrée Ruffo à la faculté** - Rares sont les personnes qui, au cours des deux dernières années, n'ont pas entendu parler d'Andrée Ruffo. Mais pour ceux et celles qui ont la mémoire courte, je me porte volontaire pour vous la rafraichir...

Andrée Ruffo est juge au Tribunal de la jeunesse. En 1988, elle publie un livre intitulé "Parce que je crois aux enfants" où elle expose le statut juridique des enfants et son regard critique face à cela. (Ce livre est présentement disponible à la réserve). Cette juge a beaucoup fait parler d'elle justement à cause de ses prises de position politiques incompatibles avec sa fonction requérant l'impartialité.

Madame le juge Ruffo sera présente à la faculté mercredi, le 7 février à 12h00 au local 202 dans le cadre des conférences "Annie Macdonald Langstaff". Elle discutera du droit des enfants.

**Summer Job for '91 / Stage for '92** - Lafleur, Brown, de Grandpré will be conducting interviews at the Faculty on Wednesday, February 14. Students who intend to proceed to Quebec Bar School in September 1991 and wish to work at Lafleur, Brown during the summer of 1991 should provide Ass.-Dean Jutras with a c.v. and a transcript by Friday, 9 February at 3:00 p.m.

\*\*\*\*\*

Love, lies and  
Valentine's Day!

*The Quid Novi*  
will be printing  
its annual  
**ROMANCE**  
edition, filled  
with special  
messages to &  
from young  
lawyers (to be) in  
love. All  
submissions  
accepted from the  
banal to the  
sublime.

Deadline is  
**Tuesday, February  
6.** You can place  
your Valentine's  
message in the  
*Quid* box in the  
LSA office or  
slide it under the  
door of the *Quid*  
office.

**Hurry!**



## AIDS...

### Cont'd from p.1

Stigmatization, ostracization and isolation are the current societal reactions to persons infected with the HIV virus. Children have been expelled from schools, tenants evicted, workers fired. The B.C. Civil Liberties Association in a recent study reported that discrimination is the rule and not the exception in that province. Andrew Orkin describes this reaction as a "second epidemic", not the AIDS "epidemic", but one he calls AFR-AIDS. Best evidence of this epidemic of fear is the spate of draconian legislation being enacted worldwide. This includes restrictions on international mobility, mandatory testing, and, in the most extreme case, quarantine for life (in Cuba). He deplored this reaction as having a number of serious negative effects: it forces persons who may be exposed to the HIV virus underground, making detection, treatment, and prevention much more difficult; and, more insidiously, it allows politicians to create the impression that by enacting restrictive statutes they are "protecting" the health interests of their constituents, while in fact they are not putting funding behind necessary education, research and treatment programmes.

Orkin talked at length about restrictions on mobility, which although they may appear to be the "most trivial", may have the greatest effects. For example, positive HIV testing is a total ground for inadmissibility to the U.S. Canadian citizens have been turned away at the U.S. border for carrying AZT (the controversial drug used in the treatment of AIDS), for carrying literature on AIDS, and for merely having the appearance of someone who might have AIDS. Orkin says this type of restriction is irrational, even counterproductive. Since the late nineteenth century, restrictive measures have long been rejected as a means to control the spread of infectious disease. The World Health Organization enjoins states from enacting such legislation except in the

case of four named diseases, among them cholera and typhus, but not including AIDS. Orkin concludes that restrictive regulations for HIV infection are illegal in international law. Further, AIDS is not communicable except through specific high-risk behaviours, unlike highly contagious communicable diseases, where restrictions on mobility might arguably be justifiable in practical terms. However, this has not prevented many states from enacting laws to screen foreign workers, students, tourists and visitors, immigrants and refugees.

The Global Programme on AIDS has concluded that people at risk must not be driven to secrecy about their exposure to the HIV virus, for fear of legal or actual harm. One billion people travel by air each year. Many of these are migrant workers. There are currently fifteen million refugees in the world. As many as ten million people are estimated to be infected by the HIV virus. How can such vast numbers of persons be screened? Canada is currently considering mandatory testing for immigrants. Approximately 150,000 immigrants are accepted in Canada per year. But, forty million people visit Canada each year. Is there any reasonable (or legal) means for imposing a regime of testing these numbers of people? Orkin points out that the testing techniques currently used are not accurate. There are false positives, and false negatives. What are the legal implications of each? What about refugees, in particular? Orkin imagined the spectre of stateless and dying refugees, who cannot go home, nor be accepted anywhere.

Prof. Flanagan spoke about domestic reporting and contact tracing. There are basically two types of regimes in Canada, that typified by Quebec and that by Ontario. In Quebec, testing is anonymous and there is no reporting of persons who test positive for the HIV virus. The emphasis in Quebec is on post-test counselling, to ensure that those at risk or infected practice safe behaviours, to prevent spread of the

virus, and to ensure that contacts are informed of the risk, tested, and counselled, too. In Ontario, all HIV positive tests must be reported to the Ministry of Health. While the patient's doctor cannot inform a patient's contacts without the patient's consent, officers from the Ministry are not under such restraint. In fact, only about ten percent of those who test positive do not voluntarily alter unsafe practices, inform their contacts, and undergo treatment. However, there is a fear that mandatory reporting and involuntary contact-tracing may drive people who are aware they are at risk into secrecy. Flanagan does not see the Quebec and Ontario systems as representing different and competing interests. Rather, he sees that encouraging voluntary testing through assured confidentiality (Quebec), and ensuring that contacts are informed (Ontario), are complementary approaches to a single problem - that of containing the spread of the HIV virus. He posits that a responsible public health policy will not sacrifice one agenda for the other, as both are crucial.

A common thread through all the talks was the awareness of the public perception of AIDS that it is something that is "out there" as opposed to a presence "in here". Effort and expense are readily devoted to keeping so-called "undesirables" out, for example, the infected refugee or suspected gay visitor. Meanwhile, Canada has one of the highest per capita infection rates for the HIV virus in the world. A question from a member of the audience at the conclusion of the panel cast a new light on this often-ignored reality. The questioner was a citizen of India, which has one of the lowest infection rates in the world. He asked: "Does Canada have a duty to warn potential immigrants of the elevated risk they face of contracting AIDS in Canada?" He'd seen the enemy, it was us.





*Quid Novi* is published weekly by students at the Faculty of Law of McGill University, 3644 Peel Street, Montreal, H3A 1W9. Production is made possible by support of the Dean's office and by direct funding from the students. Opinions expressed are those of the author only. Contributions are published at the discretion of the editor and must indicate author or origin.

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*Quid Novi* est une publication hebdomadaire assurée par les étudiants de la faculté de droit de l'université McGill, 3644 rue Peel, Montréal, H3A 1W9. La publication est rendue possible grâce à l'appui du bureau du doyen, ainsi que par le financement individuel des étudiants. Les opinions exprimées sont propres à l'auteur. Toute contribution n'est publiée qu'à la discrétion du comité de rédaction et doit indiquer l'auteur où son origine.

## Native Conference - Programme

Wednesday, February 7

7:30 p.m.

**-Iroquois Thanksgiving Address-**

**-Robert S. Litvack Memorial Award**  
presented to Sister Two Axe Early  
(LLD York Univ., Order of Canada),  
**Jeanette Corbière Lavell** (Litigant,  
SCC) and **Sandra Lovelace**  
(Petitioner, UN Human Rights Comm.)  
-Reception

Thursday, February 8

9:30 - 11:30 a.m.

**NATIVES AND JUSTICE**

**Chairperson: Sam Stevens** (Director,  
Native Law Program, Faculty of Law,  
University of British Columbia;  
"Aboriginal Peoples under the  
Canadian Justice System: An  
Overview")

**Judge Rejean Paul** (Superior Court of  
Quebec; Deputy Judge, Supreme Court

of the Northwest Territories; Chairman,  
Cree-Naskapi Commission; Native  
Issues and Quebec Justice")

**Harry Laforme** (Ontario Indian  
Claims Commissioner; "Ontario Efforts  
in Native Justice")

**Jane Dickson-Gilmore** (Doctoral  
Candidate, London School of  
Economics; "Separate Justice  
Systems")

1:00 - 3:00 p.m.

**ABORIGINAL TITLE AND LAND  
CLAIMS**

**Chairperson: René Morin**  
(Department of Justice, Quebec;  
"Quebec Government Perspectives on  
Aboriginal Title and Land Claims")

**Brian Slattery** (Osgoode Hall; "Indian,  
Inuit and Metis Aboriginal Title to  
Land: Claim and Content")

**Mary Laronde** (Member, Executive

Cont'd on p.6

## Native Conference

### THE CONFERENCE

**Objectives:** Our priority is to raise public awareness of the problems facing Native Peoples in Canada. For too long, issues facing aboriginal peoples have been marginalized, confronted only by aboriginal people themselves and a minority of Canadians.

We believe that the problems facing aboriginal peoples are also problems of all Canadians. We particularly hope that participants will be motivated to think critically about the present situation.

Secondly, the Conference, both in its planning and implementation, reflects a process of consultation and cooperation with Native communities. Too often, Native issues have been dealt with by Canadian lawyers, academics, and government representatives without

Native representation. This conference depends on their participation to create a fresh and productive dialogue.

### THE ORGANIZERS

**Student Conference Committee on Native Law:** The committee is a small, independent group of McGill University Law students who came together in order to raise awareness of urgent issues facing Native Peoples and Canada.

**Interamicus:** Interamicus is a Canadian-based International Human Rights Advocacy Centre, devoted to promotion and protection of human rights through the development and application of international human rights law and remedy.

Cont'd on p.6



## Native Law...

### Cont'd from p.1

Native Peoples: Searching for Common Grounds", Deom says the conference will be addressing many of the key issues facing the native rights movement. It is also a chance for non-natives to come to grips with issues such as discrimination against native women, aboriginal title and land claims, self-determination and self-government, as well as demands for a separate native justice system.

"Non-natives need to change their concept of native people. They need to change their attitude that 'We don't owe you Indians anything', she says.

Among the highlights include the awarding of the Robert S. Litvack Memorial Award to three prominent native women: Sister Two Axe Earley, founder of the group Equal Rights for Native Women; Jeannette Corbiere Lavell, who challenged the provisions of the Indian Act that stripped native women of their status if they married white men, but not native men who married white women. (See Lavell v. A.-G. Canada, [1974] SCR 1349.); and Sandra Lovelace who contested the same provisions before the UN Human Rights Commission.

Since Bill C-31, Deom says the same discrimination is now practiced by the bands themselves, although there is a backlash now against white women who marry native men. The solution is recognition. "Native women want to be able to live in their communities and have their children there," she says.

## COLLECTIVE RIGHTS

Deom notes that the plight of native women is just one aspect of a broader internal struggle between individual rights and a hardening of collective rights on the reserves. There are extreme views on both sides, and a middle ground has yet to be found.

"There is an essential conflict between individual rights and collective rights",

she stresses. "That's a big problem right now. We have to remember that we're communities and communities come first. But at the same time, we have to draw the line at the abuse of individual rights." This will be an important topic at the conference.

## NATIVE JUSTICE

The recommendations coming out of the Donald Marshall inquiry have given fresh impetus to demands for a separate native justice system. This controversial topic will be addressed by Jane Dickson-Gilmore, a doctoral candidate from the London School of Economics, on February 8. The same recommendations have already been made by the Canadian Bar Association.

"But with other native groups, the concern is more with putting back the spirit and healing. It's a concern with fixing the wrongdoer not wasting him or throwing him away." The flexibility of this communitarian vision has no counterpart in Western modes of punishment.

There is also a greater emphasis on the victim in native thinking. Even the tough Iroquoians required the compensation of victims of crime. "There has to be a rational approach including apologies," says Deom. "A lot of the native groups are big on apology and burying bad feelings. You have to realize that everyone has feelings. There's humanity to be considered."

But the most important thing about native justice is that it means control over their own lives. "And if you have control, you have to take responsibility for your actions."

## ABORIGINAL TITLE

The issue of aboriginal title has been rejuvenated in recent years, especially with the entrenchment of existing aboriginal title and treaty rights in section 35 of the Canadian Charter of Rights and Freedoms in 1982 and the Supreme Court's decision in Guérin v. R. in 1984,

where Dickson J. ruled that the nature of Indian title placed a fiduciary duty on the Crown.

"Indian law and aboriginal title is no longer thought of as a pipe dream. It seems to be coming into its own and has turned into a legitimate field of law." After a three year hiatus, aboriginal law returned to the curriculum of the faculty this January.

Addressing the title issue will be René Morin of the Department of Justice, Brian Slattery of Osgoode Hall, and Mary Laronde of the Executive Tribal Council, Temagami, Ontario.

## NATIVE SELF-DETERMINATION

Deom says this part of the conference will be divided into two parts: the struggle for recognition as a "people" with a right to self-determination on the international front; and the struggle for self-government on the home front.

"First we want to show that there are native peoples involved in the International Labour Organization and the Working Group on Indigenous Peoples at Geneva. There's a lot of international lobbying going on. The Mohawk Nations Office has been very active at Geneva in international diplomacy," says Deom.

The Canadian government has also been active - urging that natives are not "people" within the meaning of the UN Charter. They are only populations.

"It should heat up a bit," adds Deom. Besides panelists, others active in the field, such as James O'Reilly, the Montreal lawyer who has represented the Lubicon Indians, are also expected to make an appearance at the Conference.

Deom says the conference will be a success if it changes some attitudes about native rights. "I hope people come and I hope they challenge the ideas they already hold. I hope they learn."



## Programme...

Cont'd from p.4

Tribal Council, Teme-Augama, Ontario)

4:00 - 6:00 p.m.

### SELF-DETERMINATION IN THE INTERNATIONAL CONTEXT...

**Chairperson: Joe Sanders** (Legal advisor to the Assembly of First Nations; "Native Peoples in the Context of International Law")

**Sally Weaver** (Dept. of Anthropology, Univ. of Waterloo; "A Critique of the Policy of Self-Government")

**Ken Deer** (Coordinator, Mohawk Nation Office; "Mohawk Nation Endeavors for Self-Determination")

**Simon McInnes** (Policy Director, Self-Government Sector, Dept. of Indian Affairs and Northern Development; "Federal Government Perspectives on Self-Government")

7:00 p.m.

### RECEPTION

## Conference...

Cont'd from p.4

### THE SPONSORS

Faculty of Law, McGill; Lawyers for Social Responsibility (McGill); GRIP Quebec-PIRG; LSA/AED; Barreau du Québec.

## All Graduating Students:

I am looking for a student who would be interested to switch bar course 1990-91 in Ottawa. Please call Jean (613) 594-4804, (514) 666-9484

## Sports CORNER des Sports

In Intramurals, **Broomball's** "Read'em and Sweep" ran their record to 1-1-1 with a tie and a win in their last 2 games. Saturday's game finished in a 1-1 tie, while Tuesday's game saw Darren "slipping, diving, bleeding and scoring" to a 7-0 victory. A. Wheeler added 2 in the match while Toby the Wonder Dog kept watch from the stands. Meanwhile "Guédille et Dong" are now 2-1 in season play. Said Catherine M. of one game: "We were plastered. It was quite a defeat". Marc-Antoine and Chantal continue to shine.

**Volleyball's** "Space Cadets" have won two weeks running with 29-17 and 21-17 wins. Excellent spikes by Jane (Viennese Mike's heroine) and serving by José "Spanish Fly" and George have lifted the squad.

The **Women's Hockey** team has been improving steadily. "Last week we lost real bad", says goalie Anjali. The team fell 6-0 to the best in the league - 3 goals better than in their last encounter. This week they played "a real hockey game". Bing, one of three coaches called it "the best I have ever seen." Losing 4-0 with one minute left in the second period, they came back with a vengeance. Chantal opened the scoring and she and Tam traded goals until the last moment. With 4 seconds remaining in the game and Anjali pulled, Tam scored with a booming deflection to tie the score in a brilliant finish.

"Law A" slaughtered their opponents in a

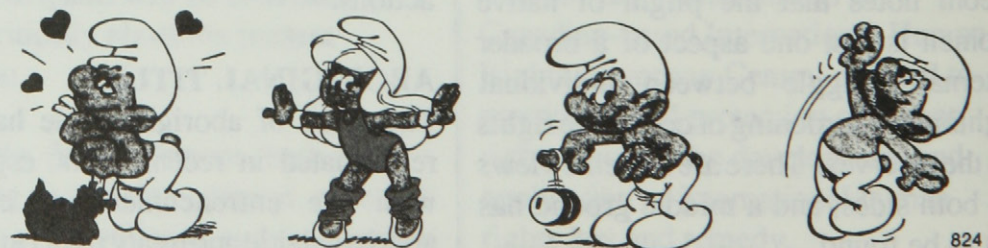
recent 8-1 romp. Sam "Mr. Headlines" got the fourth line monkey off his back with 2 goals, and Smoothie chipped in another two. They are back on the winning track and ready for their last 3 matches. "Solicitors" are now 2-5-2 after being kicked 7-3 and tying a barn-burner 3-3.

**Ball Hockey's** "Law Leafs" nearly croaked en route to an 8-7 win over the short-handed Phi Delts. The Leafs found their rhythm early, with goals by Steve, Mack-O and Howie. Cheap penalties hurt the squad until finally, in the last 20 seconds of play. Jim Hughes slapped in the winner from the point.

**Soccer's** "Outlaws" had a tough time adjusting to the indoor game, losing 2-0 in their opener against the Meds. In their second outing, they became the 2-0 victors versus the Bio Hazards. "Mitch D. is the Wayne Gretzky of soccer. She is everywhere", said fellow player Edsel M. The "Kickbacks" won their opener 5-1 with all-female scoring. A. Wheeler once again shone. Is there a sport this woman doesn't play?

Finally, **Hoops** "Jane's Lane" won their second game 54-36 against a short-handed squad of hacks. Key outside shooting by Buzz and Rob, and inside pressure by Butts hit a relatively swift squad. We need Jane.

No curling scores this week. In the immortal words of Smoothie: "I love that". Until next time, Jordo.





# Bus Culture

by Sam Sludge

Blank faced strangers, daring not to stare in one direction for too long, converge daily. their missions identical, their postures equally frozen, they each dread the imperative trek. But there are some differences between these emotionless sub-humans.

There are front-bus people and back-bus people. The former fear the Long March to the back of the bus, muscling through the chaos, feeling the penetration of foreign minds upon their self-definition. The latter feel they must attack this psychological scrutiny, beating it up, and dominating it - but domination only arrives by turning aggressively outward upon the throng thus sacrificing one's individuality to the faceless mass.

There are acquaintance-recognizers and

acquaintance-avoiders. The first type pray desperately to rise onto the bus to see someone they know, even remotely. This permits their energies to be focused on the other, allowing them to avoid the agony of continuous mental battle. Acquaintance-avoiders pretend not to see friends who ride the same route as a result of the awesome stress that is caused by the exposure of one's inner soul to so many uncaring troglodytes. Special problems arise when acquaintance-recognizers zero-in on acquaintance-avoiders, particularly when the avoider is a back-bus person and the recognizer a front-bus type.

Finally, there are standers and sitters. Standers will never take a seat, even if it is offered to him or her. Only if there is no other person on the bus will this person sit down. Standers are usually back-bus people and acquaintance-avoiders who

feel that they are perceived to be stronger and more self-reliant when precariously palming a bus pole. Sitters think they can hide from the gruesome game by taking the first seat they spot. Their sensors key in on the sanctuary of opaque blue and, even if it means injuring others, 'who deserve it anyway', they grab the freedom that a seat represents and will give it up for only one thing: a better seat.

The culture on a bus is entirely self-contained. It doesn't exist anywhere else. If we could harness the pressurized intensity within this confined space we could solve the energy problems of the world. But, like static electricity, we cannot because once the doors are opened, the battle ends and the energy is lost. This is the one thing that all bus riders share, the one thing they all have in common: the joy of exit.

## ..... No Longer a Secret .....

by David Butts, BCL IV

Up to now the Delta Theta Phi international legal society has been one of the best kept "secrets" at law school. The executive of the society met recently to discuss events of the past year and to suggest ways in which to increase the group's profile. It was decided that the *Quid Novi* afforded an excellent opportunity to achieve the latter objective.

The F.R. Scott Senate of Delta Theta Phi was established at McGill in March of 1987. There are close to eighty active and associate members. The society is open to all interested law students.

This past August Dino Mazzone and I had the pleasure of attending the society's 46th Biennial Convention, held in Houston, Texas. The convention, which lasts three days, enables members from around the world (representatives

from the Continental U.S., Puerto Rico, New Zealand, Greenland and Canada were in attendance) to meet each other face to face and exchange ideas. Society business is transacted and each Senate delegate is expected to serve on one of several committees established to assure efficient use of time. Various public speaking "competitions" were the highlight of the convention (as was the exchange of business cards and addresses). A report was filed on behalf of each senate. The convention was told of the signing of new members from McGill as well as the Scott senate's involvement in "Balderdash".

Discussion at the executive meeting then turned to the topic of "Balderdash II". (For those of you who are wondering "what the ... is "Balderdash", stay tuned to upcoming editions of the *Quid Novi* for information on this subject) A list of potential panelists was circulated for

approval. The members are now hard at work asking several prominent Montrealers to serve on the "panel of experts" for this year's event. As was the case last year, all proceeds from the event will be donated to Skit Night. The executive also decided to write the International Head Office to ask if a contribution could be made to Skit Night on behalf of Delta Theta Phi.

Anyone interested in receiving information on Delta Theta Phi can do so by contacting one of the members on the following list:

Geoffrey Gelber	934-0919
Phillip Pyke	849-0848
David Butts	489-6267
Joy Adessky	484-7273
Colin Chang	272-6181
Dino Mazzone	630-7936

Please don't hesitate to call or to corner one of us in the hallway if you have any questions!!!



# The Boulet Guide to Citation Etiquette

by William Boulet, BCL III

Have you ever asked yourself what is the point of all those secret codes and satanic symbols you find in legal citations? Why - do you ask - go to all the trouble of writing "Laliberté v. Larue (1930), [1931] S.C.R. 7 (sub. nom. Lafontaine Apts v. Larue, [1931] 2 D.L.R. 12" when you could just as easily say "Laliberté and this guy Larue, Supreme Court, 1930 or 31, I'm not sure, but there are only two books to look through so you can't miss it. Oh, just so you know, this guy Laliberté sometimes calls himself Lafontaine Apts". Or - you may ask - why write "Laliberté **versus** Larue?" Of course it's **versus**. They wouldn't be in the Supreme Court if it was **for**, would they?

Well, *détrompez-vous*, as they say in that language most often found printed upside-down and back-to-front on the last pages of Canadian government publications. There's more to legal citation than adding the entire alphabet after the names of the parties. And so, dear Reader, as most third and fourth year students bid tearful farewells to family and friends before settling down to write that 3-credit term paper, I am offering this modest guide to the do's and don't's of proper citation. After all, you'll be citing more cases in your sixty-page paper than most judges will encounter in their thirty years on the bench.

Of all the complex skills which you as a high-powered corporate lawyer will be required to possess, perhaps none is more crucial than the proper citation of cases. You may scale the dizzy heights of the corporate-law ladder, but you won't have arrived until you can cite App. Cas. unerringly. You will always remain a legal lightweight until you have cracked

the Great Round Brackets/Square Brackets Dilemma.

A number of students, some of whom - not surprisingly - get abysmally low grades in Legal Research and Writing, labour under the misapprehension that "a bracket is a bracket is a bracket, and as long as you've got the right year, what difference does it make what kind of box you stick it in". They are Philistines! Legal Anarchists! Juridical Trotskyists! Little do they realize that choosing the correct bracket is the *point* of the whole exercise! Any idiot can copy the year, but only a true master will know when to choose the (round bracket), the [square bracket] the {Petrarchan bracket} or the <Calvinistic bracket>.

**Style of Cause** - Everyone knows, for example, that the year 1930 always takes a round bracket. 1931, however, often requires a square bracket (especially for judgments rendered in the latter half of the year). Supreme Court cases always require a square bracket except where there are multiple parties (as in Rudolf v. Dasher, Dancer, Prancer et al.). Avoid using two sets of bracket in the same citation (as in (1930), [1931] 2 D.L.R. 12). Not only is this confusing, it is regarded as the worst kind of fence-sitting by most authorities in the field (and not a few in the classroom).

**"v." or "c."** - Never - **EVER** - underline the little v. between the names of the parties. This is the legal equivalent of picking your nose at the dinner table or pawing the vicar's wife at the Annual Cake Bake Sale.

**Commas** - Commas are an essential part of every legal citation and should be sprinkled liberally throughout. You can

never have too many commas and should always add a few for good measure. Remember, many an important case has been decided on the merit of commas alone.

**Judges** - The name of the judge is placed at the end of the citation and is followed by his or her office, as in R. v. Sorensen (1984), 56 A.R. 180 (Q.B.), Purvis J. (fourth door on the left next to the big brass spittoon).

**Indications of Quality** - Omit any indication of the quality in which the parties act (as in Doe dem. McGill v. Shea, arguments are the pits, little twit struts around like a gigolo from Pikot Mound, Manitoba).

**Geographical Omissions** - Omit geographical specifics such as "Newfoundland", "Saskatchewan", "Prince-Edward-Island",. Include all other geographical designations such as "City of", "County of", "Backwater of".

The author is well aware that the above is only a cursory introduction to modern legal citation but he really couldn't be bothered to go into any greater detail. Next week we'll be dealing with such last-minute essentials as "Citing Non-Existent Cases" and "How to Work Undergraduate Essays Into Your 3-Credit Paper".





# Running Hard to Stand Still: A Feminist Perspective on Family Law Reform

by Barbara Szeicz, LL. B I

Canadian family law reformers are doing little more than "moving pieces around within the patriarchal system", Professor Mary Jane Mossman said recently at McGill.

Though the law has progressed since the 19th century, when married women could not even own property, the sexist underpinnings of the system persist, the Osgoode Hall professor told a packed classroom on January 24, in a talk entitled "Running Hard to Stand Still".

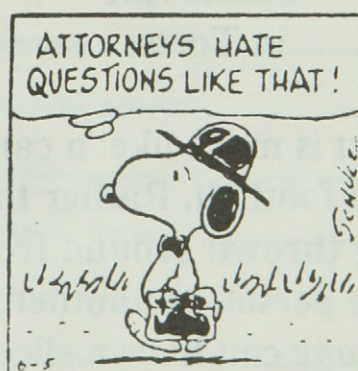
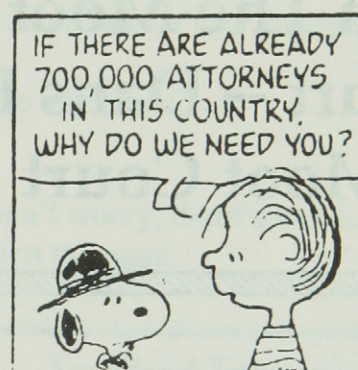
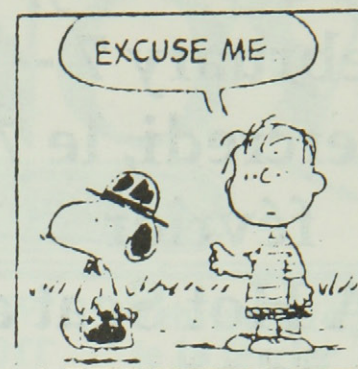
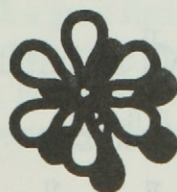
Prof. Mossman, who was the focus of a complaint before the Ontario Human Rights Commission when she was passed over for the Dean's position in 1987, described the legal system's historical reluctance to deal head on with systemic discrimination against women. In New York, for example, the granting of property rights to married women in the late 19th century was only incidental to changes to the state's Commercial Code.

The legal system today is no less wary of fundamental change. In 1975, Prof. Mossman noted, the Supreme Court of Canada in *Murdoch v. Murdoch* denied an Alberta farm-wife a share in her ex-husband's land, which she had worked for years. Then Chief Justice Laskin's proposal to use constructive trusts in such cases, though in dissent, is now considered revolutionary. Yet even Laskin, Professor Mossman noted, did not accept such remedy for the "ordinary" housewife. Only those who did traditionally male work, such as farming, would qualify. In fact, Prof. Mossman suggested, it was not Laskin's dissent that prompted reform, but rather the

outcry that greeted the majority's statement that Ms. Murdoch had performed no more than "the work done by any ranch wife" and therefore had no claim to much more than her room and board.

Prof. Mossman suggested several measures to begin an overhaul of the system. Studies of the living conditions of divorced women, such as have been undertaken in Australia, would give legislators a better understanding of the negative impact of divorce on women. Improved child support, alimony that closes the male-female wage gap, and better alimony collection systems are some possibilities. Prof. Mossman also suggested that the traditional Family Law emphasis and interdependence. Since family members are not in "arm's-length" relationships, private-law doctrines will never be satisfactory remedies for family disputes.

In 1987, despite Prof. Mossman's 5 years' experience as both Assistant and Associate Dean, Osgoode hired an outsider for the Dean's position. More than 100 Osgoode faculty, students and alumni together filed a complaint with the Ontario Human Rights Commission. The complaint was suspended this September when Osgoode offered to spend \$1 million to improve the status of women at the school. Plans include a graduate scholarship in feminist legal studies and an Institute for Feminist Legal Theory at Osgoode.





Wednesday,  
February 7 --  
Mercredi, le 7  
février

LSA Hot Seat at  
12:00 Noon --  
L'AED En Di-  
rect À Midi  
Dean's Hot Seat  
At 1:00 P.M. --  
Periode de  
Question Avec  
Le Doyen À 1:00  
In The Moot  
Court -- Dans Le  
Moot Court

Quote of the Week  
Prof. Margaret  
Somerville  
in Torts:

"Tort is more like a cake  
than a football. Rather than  
being thrown around from  
one person to another,  
*everyone* can have a slice."

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glisser sous la  
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